

# EXHIBIT 1

Presuit Notices for Cain and  
Remaining Actions Sent Before  
Original Complaints Filed<sup>1</sup>

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<sup>1</sup> As explained in the SSC Defendants' sur-reply, this exhibit includes presuit notices for nine of the ten Cain and Remaining Actions. SSC has no record of receiving presuit notice in the tenth case (*Hubbard*), but the amended complaint in that case affirmatively alleges the Plaintiff sent presuit notice to SSC on September 10, 2013 (weeks before filing the original complaint). See *Hubbard*, Dkt. No. 1:13-cv-12922, Doc. 13 at ¶ 10.

**G. BRENT BURKS**

Licensed in Tennessee  
Certified as a Civil Trial Specialist  
[brent@AskTheInsidersNow.com](mailto:brent@AskTheInsidersNow.com)



**MCMAHAN LAW FIRM**

A PROFESSIONAL CORPORATION

**CHRISTOPHER GENTRY**

Licensed in Tennessee and Georgia  
[christ@AskTheInsidersNow.com](mailto:christ@AskTheInsidersNow.com)

\*By the Tennessee Commission on  
Continuing Legal Education and Specialization

323 High Street • Chattanooga, TN 37403  
PO Box 11107 • Chattanooga, TN 37401-2107  
423-265-1100 • 800-779-5822 • Fax 423-756-8120 • 423-266-1981  
1111 N. Northshore Drive, Suite P-290 • Knoxville, TN 37919  
865-450-8946 • 855-676-1100 • Fax 865-450-8948  
[www.AskTheInsidersNow.com](http://www.AskTheInsidersNow.com)

**JAMES R. KENNAMER**

Licensed in Tennessee, Alabama & Georgia  
Certified as a Civil Trial Specialist  
[jay@AskTheInsidersNow.com](mailto:jay@AskTheInsidersNow.com)



**R. LEW BELVIN, III**

Licensed in Tennessee  
[lew@AskTheInsidersNow.com](mailto:lew@AskTheInsidersNow.com)

**JOHN D. MCMAHAN**

Of Counsel

Certified in Medical Malpractice  
and Civil Trial Specialist  
American Board of Professional  
Liability Attorneys

**July 1, 2013**

**VIA CERTIFIED MAIL  
RETURN RECEIPT REQUESTED**

**Ron Calisher, Administrator  
Specialty Surgery Center, PLLC  
116 Brown Avenue  
Crossville, TN 38555**

**Re: NOTICE OF CLAIM PURSUANT TO TENNESSEE CODE ANNOTATED §29-26-122  
Patient & Claimant: Wanda Joyce Cox**

Dear Mr. Calisher:

This notice is being provided to you as the administrator for Specialty Surgery Center, PLLC. Please read the following:

The full name and date of birth of the patient whose treatment is at issue:

**Wanda Joyce Cox  
Date of Birth: [REDACTED]  
Social Security: [REDACTED]**

The name and address of the claimant authorizing this notice and the relationship to the patient is:

**Wanda Joyce Cox - Patient & Claimant  
363 Cedar Tree Lane, Spring City, TN 37381**

The name and address of the attorney sending this Notice is:

**James R. Kennamer, Esq.  
MCMAHAN LAW FIRM  
P.O. Box 11107  
Chattanooga, TN 37401-2107  
(423) 265-1100**

This will confirm that I am the attorney representing Wanda Joyce Cox, the claimant and patient. I am giving you notice pursuant to TENNESSEE CODE ANNOTATED §29-26-121 that a medical malpractice claim will be filed against Specialty Surgery Center, PLLC within the time period required by law. The claim arises out of the severe personal injuries suffered by Wanda Joyce Cox when she was injected with contaminated drug products while Wanda Joyce Cox was under the care and treatment of Specialty Surgery Center, PLLC. The contaminated drug products were obtained by Specialty Surgery Center, PLLC from New England Compounding Pharmacy, LLC.

**I HAVE REQUESTED THAT SPECIALTY SURGERY CENTER, PLLC PROVIDE TO THE McMAHAN LAW FIRM A FULL AND COMPLETE COPY OF THE ENTIRE MEDICAL RECORDS AND THE ITEMIZED MEDICAL BILLING STATEMENTS OF SPECIALTY SURGERY CENTER, PLLC, WITH REGARD TO WANDA JOYCE COX.**

**I HAVE REQUESTED THAT SPECIALTY SURGERY CENTER, PLLC PROVIDE TO THE McMAHAN LAW FIRM A FULL AND COMPLETE COPY OF ANY OTHER DOCUMENTS WHATSOEVER WHICH WERE GENERATED, CREATED AND/OR ARE MAINTAINED BY SPECIALTY SURGERY CENTER, PLLC, AND WHICH IN ANY WAY DISCUSS OR RELATE TO WANDA JOYCE COX.**

**I AM ENCLOSING A HIPAA-COMPLIANT AUTHORIZATION SIGNED BY WANDA JOYCE COX, THAT AUTHORIZES RELEASE TO THE McMAHAN LAW FIRM OF A COMPLETE COPY OF THESE MEDICAL AND OTHER DOCUMENTS.**

The medical malpractice claim will be filed by Wanda Joyce Cox. As required by TENNESSEE CODE ANNOTATED §29-26-122(a)(2)(E), Wanda Joyce Cox, has executed a HIPAA-compliant medical authorization [enclosed herein] that authorizes you to obtain complete medical records relating to Wanda Joyce Cox. For your information, Wanda Joyce Cox has received evaluation and treatment for her injuries with the following medical providers:

**Cumberland Medical Center  
421 South Main Street  
Crossville, TN 38555-5031**

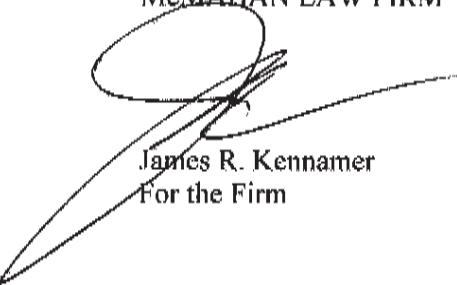
If any health care provider does not accept this HIPAA-compliant medical authorization for any reason, then please contact my offices immediately. We will use our best efforts to execute and provide a form of HIPAA-compliant medical authorization which is acceptable to the health care provider that will permit you to obtain complete medical records from that provider concerning Wanda Joyce Cox. Please be advised that neither this Notice nor the medical authorization waives the common law physician-patient privilege concerning the care and treatment of Wanda Joyce Cox.

Any correspondence or discussions with this firm about this matter should be directed to me. Please forward this Notice and the enclosures to the appropriate persons at Specialty Surgery Center, PLLC. We believe that this letter complies with the letter and spirit of TENNESSEE CODE ANNOTATED §29-26-121. If you or your counsel believe it is deficient in any way, then please promptly let us know and any defect will be promptly cured. If we do not promptly hear from you, then we will assume that you and your legal counsel believe that the letter complies with the law in all respects.

Thank you for your attention hereto.

Very truly yours,

McMAHAN LAW FIRM



James R. Kennamer  
For the Firm

JRK/pwp  
Enclosures

**NAME AND ADDRESS OF ALL HEALTH CARE PROVIDERS TO WHOM THIS NOTICE IS  
BEING SENT PURSUANT TO TENNESSEE CODE ANNOTATED § 29-26-121(A) OF A POTENTIAL  
CLAIM FOR MEDICAL MALPRACTICE:**

1. **Specialty Surgery Center, PLLC  
116 Brown Avenue  
Crossville, TN 38555**

Each provider above is being sent a HIPAA-compliant medical authorization permitting each to obtain complete medical records.

**G. BRENT BURKS**

Licensed in Tennessee  
Certified as a Civil Trial Specialist  
[brent@AskTheInsidersNow.com](mailto:brent@AskTheInsidersNow.com)



**CHRISTOPHER GENTRY**

Licensed in Tennessee and Georgia  
[chris@AskTheInsidersNow.com](mailto:chris@AskTheInsidersNow.com)  
\*By the Tennessee Commission on  
Continuing Legal Education and Specialization

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1111 N. Northshore Drive, Suite P-290 • Knoxville, TN 37919  
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**JAMES R. KENNAMER**

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**R. LEW BELVIN, III**

Licensed in Tennessee  
[lew@AskTheInsidersNow.com](mailto:lew@AskTheInsidersNow.com)

**JOHN D. MCMAHAN**

Of Counsel

Certified in Medical Malpractice  
and Civil Trial Specialist  
American Board of Professional  
Liability Attorneys

**July 1, 2013**

**VIA CERTIFIED MAIL  
RETURN RECEIPT REQUESTED**

**Ron Calisher, Administrator  
Specialty Surgery Center, PLLC  
116 Brown Avenue  
Crossville, TN 38555**

**Re: NOTICE OF CLAIM PURSUANT TO TENNESSEE CODE ANNOTATED §29-26-122  
Patient & Claimant: Wanda Lou Dingess**

Dear Mr. Calisher:

This notice is being provided to you as the administrator for Specialty Surgery Center, PLLC. Please read the following:

The full name and date of birth of the patient whose treatment is at issue:

**Wanda Lou Dingess  
Social Security: [REDACTED]  
Date of Birth: [REDACTED]**

The name and address of the claimant authorizing this notice and the relationship to the patient is:

**Wanda Lou Dingess - Patient & Claimant  
6675 Chestnut Hill Road, Crossville, TN 38571**

The name and address of the attorney sending this Notice is:

**James R. Kennamer, Esq.  
MCMAHAN LAW FIRM  
P.O. Box 11107  
Chattanooga, TN 37401-2107  
(423) 265-1100**

This will confirm that I am the attorney representing Wanda Lou Dingess, the claimant and patient. I am giving you notice pursuant to TENNESSEE CODE ANNOTATED §29-26-121 that a medical malpractice claim will be filed against Specialty Surgery Center, PLLC within the time period required by law. The claim arises out of the severe personal injuries suffered by Wanda Lou Dingess when she was injected with contaminated drug products while Wanda Lou Dingess was under the care and treatment of Specialty Surgery Center, PLLC. The contaminated drug products were obtained by Specialty Surgery Center, PLLC from New England Compounding Pharmacy, LLC.

**I HAVE REQUESTED THAT SPECIALTY SURGERY CENTER, PLLC PROVIDE TO THE McMAHAN LAW FIRM A FULL AND COMPLETE COPY OF THE ENTIRE MEDICAL RECORDS AND THE ITEMIZED MEDICAL BILLING STATEMENTS OF SPECIALTY SURGERY CENTER, PLLC, WITH REGARD TO WANDA LOU DINGESS.**

**I HAVE REQUESTED THAT SPECIALTY SURGERY CENTER, PLLC PROVIDE TO THE McMAHAN LAW FIRM A FULL AND COMPLETE COPY OF ANY OTHER DOCUMENTS WHATSOEVER WHICH WERE GENERATED, CREATED AND/OR ARE MAINTAINED BY SPECIALTY SURGERY CENTER, PLLC, AND WHICH IN ANY WAY DISCUSS OR RELATE TO WANDA LOU DINGESS.**

**I AM ENCLOSING A HIPAA-COMPLIANT AUTHORIZATION SIGNED BY WANDA LOU DINGESS, THAT AUTHORIZES RELEASE TO THE McMAHAN LAW FIRM OF A COMPLETE COPY OF THESE MEDICAL AND OTHER DOCUMENTS.**

The medical malpractice claim will be filed by Wanda Lou Dingess. As required by TENNESSEE CODE ANNOTATED §29-26-122(a)(2)(E), Wanda Lou Dingess, has executed a HIPAA-compliant medical authorization [enclosed herein] that authorizes you to obtain complete medical records relating to Wanda Lou Dingess. For your information, Wanda Lou Dingess has received evaluation and treatment for her injuries with the following medical providers:

**Cumberland Medical Center  
421 South Main Street  
Crossville, TN 38555-5031**

**Mark Pierce, M.D.  
145 West 4th Street, Suite 202  
Cookeville, TN 38501**

**Thomas E. Clayton, M.D.  
1645 S. Main Street, Suite 101  
Crossville, TN 38555**

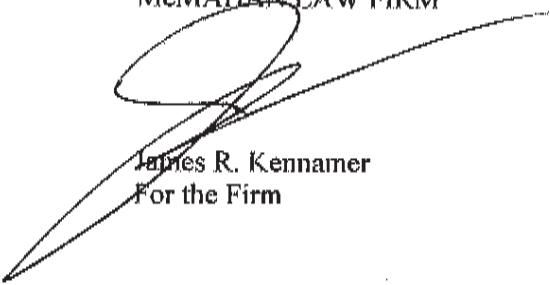
If any health care provider does not accept this HIPAA-compliant medical authorization for any reason, then please contact my offices immediately. We will use our best efforts to execute and provide a form of HIPAA-compliant medical authorization which is acceptable to the health care provider that will permit you to obtain complete medical records from that provider concerning Wanda Lou Dingess. Please be advised that neither this Notice nor the medical authorization waives the common law physician-patient privilege concerning the care and treatment of Wanda Lou Dingess.

Any correspondence or discussions with this firm about this matter should be directed to me. Please forward this Notice and the enclosures to the appropriate persons at Specialty Surgery Center, PLLC. We believe that this letter complies with the letter and spirit of TENNESSEE CODE ANNOTATED §29-26-121. If you or your counsel believe it is deficient in any way, then please promptly let us know and any defect will be promptly cured. If we do not promptly hear from you, then we will assume that you and your legal counsel believe that the letter complies with the law in all respects.

Thank you for your attention hereto.

Very truly yours,

McMAHAN LAW FIRM

  
James R. Kennamer  
For the Firm

JRK/pwp  
Enclosures

**NAME AND ADDRESS OF ALL HEALTH CARE PROVIDERS TO WHOM THIS NOTICE IS  
BEING SENT PURSUANT TO TENNESSEE CODE ANNOTATED § 29-26-121(A) OF A POTENTIAL  
CLAIM FOR MEDICAL MALPRACTICE:**

1. **Specialty Surgery Center, PLLC**  
**116 Brown Avenue**  
**Crossville, TN 38555**

Each provider above is being sent a HIPAA-compliant medical authorization permitting each to obtain complete medical records.

## LAW OFFICES

**Gilreath & Associates, PLLC**

SIDNEY GILREATH  
R. CHRISTOPHER GILREATH  
CARY L. BAUER  
TIMOTHY HOUSHOLDER  
GINGER PICKARD

BANK OF AMERICA CENTER  
550 MAIN AVENUE, SUITE 600  
P.O. BOX 1270  
KNOXVILLE, TENNESSEE 37801-1270  
TELEPHONE 865/637-2442  
FACSIMILE 865/871-4118  
[www.sidgilreath.com](http://www.sidgilreath.com)

**Nashville Office**  
222 SECOND AVENUE NORTH  
SUITE 617  
NASHVILLE, TENNESSEE 37201  
615/268-3288

**Memphis Office**  
ONE MEMPHIS PLACE  
200 JEFFERSON AVENUE, SUITE 711  
MEMPHIS, TENNESSEE 38102  
901/767-0811

July 17, 2013

*Via Certified Mail - Return Receipt Requested*

Kenneth R. Lister, M.D.  
116 Brown Avenue  
Crossville, TN 38555

**RE: Linda L. Jackson**  
**Notice Required by T.C.A. § 29-26-121(a)**

Dear Dr. Lister:

I represent Linda L. Jackson. Through me and my firm, she is asserting a potential claim for medical malpractice against you. This claim arises out of the treatment Ms. Jackson received at Specialty Surgery Center beginning on July 19, 2012 and continuing until August 21, 2013, which ultimately resulted in Ms. Jackson having to undergo testing and prophylaxis for a fungal infection as the result of a positive fungal culture from a spinal tap after an epidural steroid injection manufactured by New England Compounding Center.

The full name and date of birth of the patient whose treatment is at issue are:

Linda L. Jackson  
Date of Birth: [REDACTED]

The name and address of the claimant authorizing this notice and the relationship to the patient are:

Linda L. Jackson (patient)  
294 Creekway Drive  
Crossville, TN 38555

The name and address of the attorney sending this notice are:

Timothy A. Housholder, Attorney  
Sidney Gilreath & Associates  
550 Main Avenue, Suite 600  
Knoxville, TN 37902

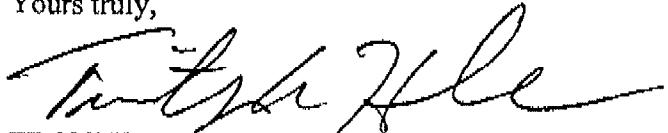
Page 2

July 17, 2013

Enclosed is a HIPPA-compliant medical authorization permitting you to obtain complete medical records from each other provider being sent a notice.

Attached is a list of all healthcare providers to whom notice is being given pursuant to T.C.A. §29-26-121(a). Please have your professional liability insurance carrier's representative, or other appropriate person, contact me soon.

Yours truly,



TIMOTHY A. HOUSHOLDER

TH/kfl

Enclosure

**LIST OF HEALTHCARE PROVIDERS TO WHOM NOTICE IS BEING GIVEN  
PURSUANT TO TCA § 29-26-121(A)**

RE: Linda L. Jackson

The following is a list of all healthcare providers to whom notice is being given, pursuant to Tennessee Code Annotated Section 29-26-121(a), of a potential claim for medical malpractice:

1. Specialty Surgery Center, PLLC  
116 Brown Avenue  
Crossville, TN 38555
2. Kenneth Lister, M.D.  
116 Brown Avenue  
Crossville, TN 38555
3. Kenneth Lister, M.D.  
Outpatient Anesthesia  
2761 Sullins Street  
Knoxville, TN 37919

**HIPAA-COMPLIANT AUTHORIZATION FOR RELEASE OF INFORMATION**  
**PURSUANT TO T.C.A. §29-26-121**

PATIENT NAME: Linda L. Jackson

DATE OF BIRTH: [REDACTED]

SOCIAL SECURITY NO: [REDACTED]

DATES OF TREATMENT: 7/19/2012 – Present

I, Linda L. Jackson, authorize:

Kenneth R. Lister, M.D.

to obtain my complete medical records from:

Specialty Surgery Center, PLLC

This authorization is granted under HIPPA (the Health Insurance Portability and Accountability Act of 1996) to include all records information data in the possession of the above-named, including hospital, doctor, dental, psychiatric, pharmacy, therapy, and all other records. The purpose of this authorization is for full disclosure of all records for use in the investigation and possible resolution of a liability claim for personal injuries. The information used or disclosed pursuant to this authorization may be subject to re-disclosure by the recipient and may no longer be protected by Federal Law/HIPAA Privacy Rules. I also understand that I may refuse to sign this authorization and that my refusal to sign will not affect my ability to obtain treatment, payment for services, or my eligibility for benefits.

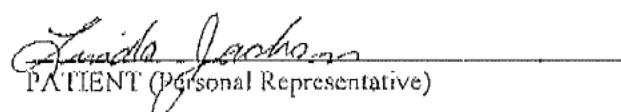
I may revoke this authorization at any time, in writing, at any time except where a covered entity has taken action in reliance on this authorization. This authorization will expire when revoked by me or when the undersigned's representation by Gilreath & Associates, PLLC is concluded.

All medical records obtained pursuant to this authorization shall be copied and a copy shall be furnished to my attorneys in the care of Gilreath & Associates, 550 Main Ave., Ste. 600, Knoxville, TN 37902 within five (5) days after the records are obtained.

A photocopy of this authorization is to be considered as valid as the original.

THIS AUTHORIZATION DOES NOT PERMIT ANYONE TO DISCUSS THESE MATTERS WITH ANY MEDICAL CARE PROVIDER OR THEIR REPRESENTATIVE OUTSIDE THE PRESENCE MY ATTORNEY.

This 17 day of July, 2013.

  
\_\_\_\_\_  
PATIENT (Personal Representative)

**GOLOMB & HONIK**

A PROFESSIONAL CORPORATION

Attorneys at Law  
1515 MARKET STREET  
SUITE 1100  
Philadelphia, Pennsylvania 19102Steven D. Resnick  
sresnick@golombhonik.com215-985-9177  
Fax: 215-985-4169

September 4, 2013

**Via Certified Mail and Regular Mail**Kenneth R. Lister, M.D.  
116 Brown Avenue  
Crossville, TN 38555

**Re: Patient: John Johnson**  
**Notice of health care liability claim required by**  
**Tennessee Code Annotated §29-26-121**

Dear Dr. Lister:

We are the attorneys representing John Johnson.

Through his attorney, John Johnson is asserting potential claims for health care liability against Specialty Surgical Center, including their agents, employees, physicians and pharmacists.

This potential claim arises out of care, medicines and services provided by employees and/or agents of Specialty Surgical Center to John Johnson from August, 2012 through October, 2012.

The full name and date of birth of the patient whose treatment is at issue:

John Johnson

Date of Birth: [REDACTED]

The name and address of the claimant authorizing this notice:

John Johnson  
4321 Glade Creek Road  
Sparta, Tennessee 38583

Page 2  
September 4, 2013

The name and address of the attorney sending this notice:

Steven D. Resnick, Esquire  
Golomb & Honik  
1515 Market Street  
Suite 1100  
Philadelphia, PA 19102

Attached hereto is a list of all healthcare providers to whom notice is being given pursuant to Tennessee Code Annotated §12-26-121(a)(2)(D).

Pursuant to Tennessee Code Annotated §29-26-121(a)(2)(E), I also enclose a HIPAA compliant medical authorization permitting you to obtain complete medical records on John Johnson from each other provider being sent a notice. If any of those providers does not accept this authorization for any reason, please contact us and we will arrange to execute an authorization acceptable to them that will permit you to obtain complete medical records on John Johnson.

Neither this notice nor the medical authorization waives the common law physician patient privilege concerning the care and treatment of John Johnson by an doctor who provided medical services for John Johnson. We expect that you will not communicate with any person other than your attorney about any doctor's care and treatment of John Johnson.

We believe this letter complies with the letter and spirit of Tennessee Code Annotated § 29-26-121. If you believe it is deficient in any way, please let us know and any defect will be promptly cured. If we do not hear from you we will assume that you agree the letter complies with the law.

Sincefely,



Steven D. Resnick  
GOLOMB & HONIK

SDR/db  
Enclosures

Via Certified Mail – Return Receipt Requested 7012 2920 0000 6650 8413

List of all healthcare providers to whom notice is being given pursuant to Tennessee  
Code Annotated Section 29-26-121(a)(2)(D)

Re: John Johnson

Below is a list of all healthcare providers to whom notice is being given pursuant to Tennessee Code Annotated §29-26-121(a)(2)(D) of a potential claim for health care liability:

Specialty Surgical Center  
116 Brown Avenue  
Crossville, TN 38555

Kenneth R. Lister, M.D.  
Specialty Surgical Center  
116 Brown Avenue  
Crossville, TN 38555

**I IA COMPLIANT AUTHORIZATION FOR  
PURSUANT TO 45 CFR 164.508**

TO: Karen L. Johnson MD

PURPOSE: LEGAL

Patient Name: John L. Johnson AKA: \_\_\_\_\_

Date of Birth: \_\_\_\_\_ Social Security No.: \_\_\_\_\_

Address: 4321 Glade Creek Rd.

I authorize the disclosure of all protected medical information. I expressly request that all health plans and all health care providers identified above disclose full and complete protected medical information spanning the time period of \_\_\_\_\_ to \_\_\_\_\_ including the following:

SS

- All medical records, including inpatient, outpatient and emergency room treatment, all clinical charts, reports, documents, correspondence, test results, statements, questionnaires/histories, office and doctor's handwritten notes consultation reports and any other records received by other physicians.

JJ

- All autopsy, laboratory, histology, cytology, pathology, echocardiogram and cardiac catheterization reports.

JJ

- All radiology films, mammograms, myelograms, CT scans, MRI's, photographs and bone scans.

JJ

- All pharmacy/prescription records including NDC numbers and drug information handouts/monographs.

JJ

- All billing records including all statements, itemized bills and insurance records.

\_\_\_\_\_ • All employment records

Unless you initial here, no information about alcohol/substance abuse, or HIV/AIDS will be disclosed.

   Yes, disclose this information.         No, do NOT disclose this information.

I authorize you to release the protected health information to my attorneys, GOLOMB & HONIK P.C., 1515 Market Street, Suite 1100, Philadelphia, PA 19102.

I understand that signing this authorization is voluntary. My treatment, payment, enrollment in a health plan, or eligibility for benefits will not be conditioned upon my authorization of this disclosure.

Photocopies of this authorization are to be accepted with the same authority as the original.

This authorization does not apply to psychotherapy notes, psychiatric or psychological records. I acknowledge the right to revoke this authorization by writing to Golomb & Honik P.C. at the above-referenced address. However, I understand that any actions already taken in reliance on this authorization cannot be reversed, and my revocation will not affect those actions. I acknowledge the potential for information disclosed pursuant to this authorization to be subject to redisclosure by the recipient and no longer be protected under 45 CFR 164.508. This authorization expires two years from the date below.

Signature: John L. Johnson

Date: 11-14-12

Relationship to the person who is the subject of the records: \_\_\_\_\_

Self:    Other:   

Describe Authority



LAW OFFICES

**Gilreath & Associates, PLLC**

SIDNEY GILREATH  
R. CHRISTOPHER GILREATH  
CARY L. BAUER  
TIMOTHY HOUSHOLDER  
GINGER PICKARD

BANK OF AMERICA CENTER  
550 MAIN AVENUE, SUITE 600  
P.O. BOX 1270  
KNOXVILLE, TENNESSEE 37901-1270  
TELEPHONE 865/637-2442  
FACSIMILE 865/871-4110  
[www.sdgilreath.com](http://www.sdgilreath.com)

NASHVILLE, Tennessee  
222 SECOND AVENUE NORTH  
SUITE 417  
NASHVILLE, TENNESSEE 37201  
615/226-5288

MEMPHIS, Tennessee  
ONE MEMPHIS PLACE  
200 JEFFERSON AVENUE, SUITE 711  
MEMPHIS, TENNESSEE 38103  
901/527-0511

September 17, 2013

*Via Certified Mail - Return Receipt Requested*

Specialty Surgery Center, PLLC  
c/o Ron Calisher, Administrator  
116 Brown Avenue  
Crossville, TN 38555

RE: William Lapiska  
Notice Required by T.C.A. § 29-26-121(a)

Dear Mr. Calisher:

I represent William Lapiska. Through me and my firm, he is asserting a potential claim for medical malpractice against you. This claim arises out of the treatment Mr. Lapiska received at Specialty Surgery Center on September 18, 2012, wherein he received an injection of an epidural steroid manufactured by New England Compounding Center, which resulted in an a spinal fungal abscess at the site of the tainted injection. Mr. Lapiska was referred to an infectious disease specialist where he had two MRI's and a spinal tap followed by a third MRI. Mr. Lapiska was then referred to a neurologist who drained the abscess while Mr. Lapiska was hospitalized at Cookeville Regional Medical Center. Mr. Lapiska was then required to take antifungal medication for a prolonged amount of time.

The full name and date of birth of the patient whose treatment is at issue are:

William Lapiska  
Date of Birth: [REDACTED]

The name and address of the claimant authorizing this notice and the relationship to the patient are:

William Lapiska (patient)  
248 Lakewood Drive  
Fairfield Glade, TN 38558

The name and address of the attorney sending this notice are:

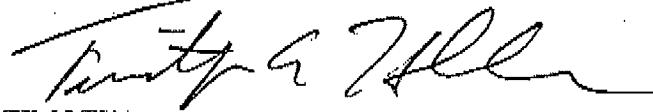
Timothy A. Houholder, Attorney  
Gilreath & Associates  
550 Main Avenue, Suite 600  
Knoxville, TN 37902

Page 2  
September 17, 2013

Enclosed is a HIPPA-compliant medical authorization permitting you to obtain complete medical records from each other provider being sent a notice.

Attached is a list of all healthcare providers to whom notice is being given pursuant to T.C.A. §29-26-121(a). Please have your professional liability insurance carrier's representative, or other appropriate person, contact me soon.

Yours truly,



TIMOTHY A. HOUSHOLDER

TH/kfl

Enclosure

**HIPAA-COMPLIANT AUTHORIZATION FOR RELEASE OF INFORMATION**  
**PURSUANT TO T.C.A. §29-26-121**

PATIENT NAME: WILLIAM LAPISKA

DATE OF BIRTH: [REDACTED]

SOCIAL SECURITY NO: [REDACTED]

DATES OF TREATMENT: 9/18/2012 – Present

I, William Lapiska, authorize:

Specialty Surgery Center, PLLC

to obtain my complete medical records from:

Kenneth R. Lister, M.D.

This authorization is granted under HIPAA (the Health Insurance Portability and Accountability Act of 1996) to include all records information data in the possession of the above-named, including hospital, doctor, dental, psychiatric, pharmacy, therapy, and all other records.

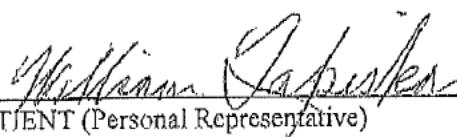
I may revoke this authorization at any time. This authorization will expire when revoked by me or when the undersigned's representation by Gilreath & Associates, PLLC is concluded.

All medical records obtained pursuant to this authorization shall be copied and a copy shall be furnished to my attorneys in the care of Timothy A. Housholder, 550 Main Avenue, Suite 600, Knoxville, TN 37902 within five (5) days after the records are obtained.

A photocopy of this authorization is to be considered as valid as the original.

THIS AUTHORIZATION DOES NOT PERMIT ANYONE TO DISCUSS THESE MATTERS WITH ANY MEDICAL CARE PROVIDER OR THEIR REPRESENTATIVE OUTSIDE THE PRESENCE OF MY ATTORNEY.

This 17th day of September, 2013.

  
PATIENT (Personal Representative)

**LIST OF HEALTHCARE PROVIDERS TO WHOM NOTICE IS BEING GIVEN  
PURSUANT TO TCA § 29-26-121(A)**

RE: WILLIAM LAPISKA

The following is a list of all healthcare providers to whom notice is being given, pursuant to Tennessee Code Annotated Section 29-26-121(a), of a potential claim for medical malpractice:

1. Dr. Kenneth R. Lister, M.D.  
116 Brown Avenue  
Crossville, TN 38555
2. Dr. Kenneth R. Lister, M.D.  
Outpatient Anesthesia  
2761 Sullins Street  
Knoxville, TN 37919
3. Specialty Surgery Center, PLLC  
116 Brown Avenue  
Crossville, TN 38555

**G. BRENT BURKS**

Licensed in Tennessee  
Certified as a Civil Trial Specialist\*  
brent@AskTheInsidersNow.com



A PROFESSIONAL CORPORATION

**JAMES R. KENNAMER**

Licensed in Tennessee, Alabama & Georgia  
Certified as a Civil Trial Specialist\*  
jay@AskTheInsidersNow.com

**CHRISTOPHER GENTRY**

Licensed in Tennessee and Georgia  
chris@AskTheInsidersNow.com

\*By the Tennessee Commission on  
Continuing Legal Education and Specialization

323 High Street • Chattanooga, TN 37403  
PO Box 11107 • Chattanooga, TN 37401-2107  
423-265-1100 • 800-779-5822 • Fax 423-756-0120 • 423-266-1981  
1111 N. Northshore Drive, Suite P 290 • Knoxville, TN 37919  
865-450-8946 • 855-676-1100 • Fax 865-450-8948  
[www.AskTheInsidersNow.com](http://www.AskTheInsidersNow.com)

**R. LEW BELVIN, III**

Licensed in Tennessee  
lew@AskTheInsidersNow.com

**JOHN D. MCMAHAN**

Of Counsel

Certified in Medical Malpractice  
and Civil Trial Specialist\*  
American Board of Professional  
Liability Attorneys

September 3, 2013

**VIA HAND DELIVERY**

**Donathan M. Ivey**  
Specialty Surgery Center, PLLC  
116 Brown Avenue  
Crossville, TN 38555-7703

**Re: NOTICE OF CLAIM PURSUANT TO TENNESSEE CODE ANNOTATED §29-26-122**

Patient: Dallas Ray Nealon  
Claimant: Darwin L. Nealon, as Son, Next of Kin to and as the Administrator of the  
Estate of Dallas Ray Nealon, Deceased

Dear Mr. Ivey:

This notice is being provided to you as the registered agent for service of process for Specialty Surgery Center, PLLC. Please read the following:

The full name and date of birth of the patient whose treatment is at issue:

Dallas Ray Nealon  
Social Security: [REDACTED]  
Date of Birth: [REDACTED]

The name and address of the claimant authorizing this notice and the relationship to the patient is:

Claimant: Darwin L. Nealon, as Son, Next of Kin to and as the Administrator of the  
Estate of Dallas Ray Nealon, Deceased  
1260 Crosscreek Drive, Ap. 71., Brunswick, Ohio 44212

The name and address of the attorney sending this Notice is:

James R. Kennamer, Esq.  
MCMAHAN LAW FIRM  
P.O. Box 11107  
Chattanooga, TN 37401-2107  
(423) 265-1100

This will confirm that I am the attorney representing Darwin L. Nealon, as Son, Next of Kin to and as the Administrator of the Estate of Dallas Ray Nealon, Deceased, the claimant. I am giving you notice pursuant to TENNESSEE CODE ANNOTATED §29-26-121 that a medical malpractice claim will be filed against Specialty Surgery Center, PLLC within the time period required by law. The claim arises out of the severe personal injuries suffered by Dallas Ray Nealon which caused his death on December 9, 2012, after he was injected with contaminated drug products while Dallas Ray Nealon was under the care and treatment of Specialty Surgery Center, PLLC. The contaminated drug products were obtained by Specialty Surgery Center, PLLC from New England Compounding Pharmacy, LLC.

**I HAVE REQUESTED THAT SPECIALTY SURGERY CENTER, PLLC PROVIDE TO THE McMAHAN LAW FIRM A FULL AND COMPLETE COPY OF THE ENTIRE MEDICAL RECORDS AND THE ITEMIZED MEDICAL BILLING STATEMENTS OF SPECIALTY SURGERY CENTER, PLLC, WITH REGARD TO DALLAS RAY NEALON.**

**I HAVE REQUESTED THAT SPECIALTY SURGERY CENTER, PLLC PROVIDE TO THE McMAHAN LAW FIRM A FULL AND COMPLETE COPY OF ANY OTHER DOCUMENTS WHATSOEVER WHICH WERE GENERATED, CREATED AND/OR ARE MAINTAINED BY SPECIALTY SURGERY CENTER, PLLC, AND WHICH IN ANY WAY DISCUSS OR RELATE TO DALLAS RAY NEALON.**

**I AM ENCLOSING A HIPAA-COMPLIANT AUTHORIZATION SIGNED BY DARWIN L. NEALON, AS SON, NEXT OF KIN TO AND AS THE ADMINISTRATOR OF THE ESTATE OF DALLAS RAY NEALON, DECEASED, THAT AUTHORIZES RELEASE TO THE McMAHAN LAW FIRM OF A COMPLETE COPY OF THESE MEDICAL AND OTHER DOCUMENTS. I AM ALSO ENCLOSING A COPY OF THE ORDER APPOINTING DARWIN L. NEALON AS THE REPRESENTATIVE OF HIS FATHER'S ESTATE FOR A CAUSE OF ACTION ONLY.**

The medical malpractice claim will be filed by Darwin L. Nealon, as Son, Next of Kin to and as the Administrator of the Estate of Dallas Ray Nealon, Deceased. As required by TENNESSEE CODE ANNOTATED §29-26-122(a)(2)(E), Darwin L. Nealon, as Son, Next of Kin to and as the Administrator of the Estate of Dallas Ray Nealon, Deceased, has executed a HIPAA-compliant medical authorization [enclosed herein] that authorizes you to obtain complete medical records relating to Dallas Ray Nealon, Deceased. For your information, Dallas Ray Nealon has received evaluation and treatment for his injuries with the following medical providers:

**Cumberland Medical Center  
421 South Main Street  
Crossville, TN 38555-5031**

**Cookeville Regional Medical Center  
142 W. 5th Street  
Cookeville, TN 38501**

**Joanna Gibbs Whitmill, M.D.  
100 Lantana Road, Suite 202  
Crossville, TN 38555**

**Good Samaritan Society - Fairfield Glade  
100 Samaritan Way  
Crossville, TN 38558**

**Cumberland County EMS  
84 South Bend Drive  
Crossville, TN 38555**

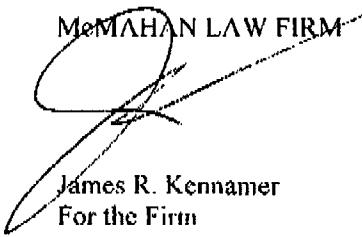
If any health care provider does not accept this HIPAA-compliant medical authorization for any reason, then please contact my offices immediately. We will use our best efforts to execute and provide a form of HIPAA-compliant medical authorization which is acceptable to the health care provider that will permit you to obtain complete medical records from that provider concerning Dallas Ray Nealon. Please be advised that neither this Notice nor the medical authorization waives the common law physician-patient privilege concerning the care and treatment of Dallas Ray Nealon.

Any correspondence or discussions with this firm about this matter should be directed to me. Please forward this Notice and the enclosures to the appropriate persons at Specialty Surgery Center, P.L.C. We believe that this letter complies with the letter and spirit of TENNESSEE CODE ANNOTATED §29-26-121.

If you or your counsel believe it is deficient in any way, then please promptly let us know and any defect will be promptly cured. If we do not promptly hear from you, then we will assume that you and your legal counsel believe that the letter complies with the law in all respects.

Thank you for your attention hereto.

Very truly yours,

  
McMAHAN LAW FIRM  
James R. Kennamer  
For the Firm

JRK/pwp  
Enclosures

**NAME AND ADDRESS OF ALL HEALTH CARE PROVIDERS TO WHOM THIS NOTICE IS BEING SENT PURSUANT TO TENNESSEE CODE ANNOTATED §29-26-121(A) OF A POTENTIAL CLAIM FOR MEDICAL MALPRACTICE:**

1. **Specialty Surgery Center, P.L.C.**  
**116 Brown Avenue**  
**Crossville, TN 38555**
2. **Cumberland Medical Center, Inc.**  
**421 S. Main Street**  
**Crossville, TN 38555-5031**

Each provider above is being sent a HIPAA-compliant medical authorization permitting each to obtain complete medical records.

**AUTHORIZATION FOR PRODUCTION OF MEDICAL DOCUMENTATION**

Pursuant to TENNESSEE CODE ANNOTATED §29-26-122(a)(2)(E), I, Darwin L. Nealon, have executed this HIPAA-compliant medical authorization that authorizes the Specialty Surgery Center, PLJ.C, and/or the designated legal representative for Specialty Surgery Center, PLJ.C, to obtain complete medical records regarding my deceased father, Dallas Ray Nealon, Social Security No.: [REDACTED] Date of Birth: [REDACTED]

The medical documentation which is authorized to be copied and produced to Specialty Surgery Center, PLLC, and/or the designated legal representative for Specialty Surgery Center, PLLC, would include, but not be limited to, medical records, medical reports, medical charts, X-ray reports or films, diagnostic studies, psychiatric records, psychological records, pharmacy or prescription medication records, pathology reports or slides, medical billing statements, and/or other documents, writings or tangible things related to the medical care and treatment of Dallas Ray Nealon. The medical information that is authorized to be produced includes, but is not limited to, protected health information as defined at 45 C.F.R. 164.500, *et seq.*, (The HIPAA Privacy Rule).

I, Darwin L. Nealon, understand that the information in the health records may include information which is related to sexually transmitted disease, acquired immunodeficiency syndrome (AIDS), or human immunodeficiency virus (HIV). It may also include information about behavioral or mental health services, and treatment for alcohol and drug abuse.

I, Darwin L. Nealon, understand that I have the right to revoke this authorization at any time. I, Darwin L. Nealon, understand that if I revoke this authorization I must do so in writing and present my written revocation to the health information management department and/or employment human resources or personnel department. I, Darwin L. Nealon, understand that the revocation will not apply to information that has already been released in response to this authorization. Unless otherwise revoked, this authorization will expire on the following date, or event or condition: June 28, 2020.

I, Darwin L. Nealon, understand that authorizing the disclosure of this health information is voluntary and that I can refuse to sign this authorization. I, Darwin L. Nealon, understand that I may inspect or copy the information to be used or disclosed, as provided by C.F.R. 164.524. I, Darwin L. Nealon, understand that any disclosure of information carries with it the potential for an unauthorized re-disclosure and the information may not be protected by federal confidentiality rules.

I, Darwin L. Nealon, understand that the medical documentation and health information is being disclosed due to my claims for the severe injuries and death of my father, Dallas Ray Nealon, which I allege were caused when my father, Dallas Ray Nealon, was injected with contaminated drug products while he was under the care and treatment of Specialty Surgery Center, PLLC. The contaminated drug products were obtained by Specialty Surgery Center, PLLC from New England Compounding Pharmacy, LLC.

This health information may be disclosed to and may be used by the following organization:

**Specialty Surgery Center, PLLC, and/or the designated  
legal representative for Specialty Surgery Center, PLLC**  
**116 Brown Avenue**  
**Crossville, TN 38555**  
**Telephone # (931) 484-2500**

---

**Darwin L. Nealon, as Son, Next of Kin to  
and as Administrator of the Estate of  
Dallas Ray Nealon, Deceased.**

**AUTHORIZATION FOR PRODUCTION OF MEDICAL DOCUMENTATION**

Pursuant to TENNESSEE CODE ANNOTATED §29-26-122(a)(2)(E), I, Darwin L. Nealon, have executed this HIPAA-compliant medical authorization that authorizes the MCMAHAN LAW FIRM to obtain complete medical records regarding my deceased father, Dallas Ray Nealon, Social Security No.: [REDACTED]

Date of Birth: [REDACTED]

The medical documentation which is authorized to be copied and produced to MCMAHAN LAW FIRM would include, but not be limited to, medical records, medical reports, medical charts, X-ray reports or films, diagnostic studies, psychiatric records, psychological records, pharmacy or prescription medication records, pathology reports or slides, medical billing statements, and/or other documents, writings or tangible things related to the medical care and treatment of Dallas Ray Nealon. The medical information that is authorized to be produced includes, but is not limited to, protected health information as defined at 45 C.F.R. 164.500, *et seq.*, (The HIPAA Privacy Rule).

I, Darwin L. Nealon, understand that the information in the health records may include information which is related to sexually transmitted disease, acquired immunodeficiency syndrome (AIDS), or human immunodeficiency virus (HIV). It may also include information about behavioral or mental health services, and treatment for alcohol and drug abuse.

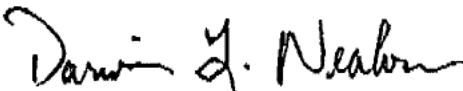
I, Darwin L. Nealon, understand that I have the right to revoke this authorization at any time. I, Darwin L. Nealon, understand that if I revoke this authorization I must do so in writing and present my written revocation to the health information management department and/or employment human resources or personnel department. I, Darwin L. Nealon, understand that the revocation will not apply to information that has already been released in response to this authorization. Unless otherwise revoked, this authorization will expire on the following date, or event or condition: June 28, 2020.

I, Darwin L. Nealon, understand that authorizing the disclosure of this health information is voluntary and that I can refuse to sign this authorization. I, Darwin L. Nealon, understand that I may inspect or copy the information to be used or disclosed, as provided by C.F.R. 164.524. I, Darwin L. Nealon, understand that any disclosure of information carries with it the potential for an unauthorized re-disclosure and the information may not be protected by federal confidentiality rules.

I, Darwin L. Nealon, understand that the medical documentation and health information is being disclosed due to my claims for the severe injuries and death of my father, Dallas Ray Nealon, which I allege were caused when my father, Dallas Ray Nealon, was injected with contaminated drug products while he was under the care and treatment of Specialty Surgery Center, PLLC. The contaminated drug products were obtained by Specialty Surgery Center, PLLC from New England Compounding Pharmacy, LLC.

This health information may be disclosed to and may be used by the following organization:

MCMAHAN LAW FIRM  
P.O. Box 11107  
Chattanooga, TN 37401-2107  
Telephone # (423) 265-1100



Date: 7/26/13

Darwin L. Nealon, as Son, Next of Kin to  
and as Administrator of the Estate of  
Dallas Ray Nealon, Deceased

IN THE PROBATE AND FAMILY COURT OF CUMBERLAND COUNTY, TENNESSEE

IN THE MATTER OF THE ESTATE OF  
DALLAS RAY NEALON, DECEASED.

No. 2013-PF-3466

\*  
\*  
\*  
\*  
\*

**ORDER APPOINTING PERSONAL REPRESENTATIVE FOR CAUSE OF ACTION ONLY**

On Aug. 1, 2013, Darwin L. Nealon presented to the Court a petition to have himself appointed Administrator *ad litem* of the Estate of Dallas Ray Nealon, deceased, and R. Lew Belvin, III, Attorney for the petitioner, moved the Court to appoint Darwin L. Nealon as Administrator *ad litem* of said estate for the limited purpose of a cause of action only.

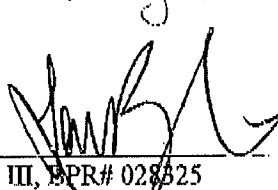
It appearing to the Court that said Deceased Dallas Ray Nealon died on December 9, 2012, and the decedent's usual place of residence at the time of death was in Cumberland County, Tennessee.

**IT IS ORDERED,**

The estate be opened for cause of action only, no further reports are required by the Probate Court in this cause, and no Bond is required by the Probate Court, the costs having been paid in full by Petitioner.

ENTER Aug. 1, 2013.

APPROVED:  
R. Lew Belvin, III, EPR# 028825  
MCMAHAN LAW FIRM  
P.O. Box 11107  
Chattanooga, TN 37401-2107  
(423) 265-1100  
Attorney for Petitioner, Darwin L. Nealon

  
Larry M. Warner  
THE HONORABLE LARRY M. WARNER, JUDGE

Date 8-1-13 FILED 8-1-13 3:40 PM  
Entered 8-1-13 BY SUE TOLLETT  
SUE TOLLETT, CLERK & MASTER  
Cumberland County, Crossville, TN  
OK'd

The undersigned hereby certifies that a copy of this Order has been provided to the counsel for the Petitioner in this case.

This 1st day of August, 2013.

SUE TOLLETT, CLERK & MASTER

By: Sue Tollett by Jennifer Davis  
Deputy Probate Clerk

STATE OF TENNESSEE, COUNTY OF CUMBERLAND  
I, THE UNDERSIGNED, CLERK & MASTER OF SAID  
COUNTY AND STATE, DO HEREBY CERTIFY THAT  
THIS IS A TRUE AND CORRECT COPY OF THE  
ORIGINAL OF THIS INSTRUMENT.  
THIS 1st DAY OF August, 2013  
SUE TOLLETT  
CLERK & MASTER

**SCOTT & CAIN**

Attorneys at Law

550 W. Main Street, Suite 601  
Knoxville, TN 37902  
Telephone: (865) 525-2150  
Facsimile: (865) 525-2120

**Thomas S. Scott, Jr.**  
scott@scottandcain.com

**Christopher T. Cain**  
cain@scottandcain.com

July 17, 2013

Specialty Surgery Center, PLLC  
c/o Donathan M Ivey, Registered Agent  
116 Brown Ave  
Crossville, TN 38555-7703

Certified Mail/Return Receipt Requested

*In Re: Jocelyn Kae Norris*

DOB: [REDACTED]

SSN: [REDACTED]

*T.C.A. § 29-26-121. Claim for health care liability - - Notice - - Evidence of  
Compliance - - Limitations - - Copies of medical records*

Dear Mr. Ivey:

In conformity with the provisions of Tennessee Code Annotated § 29-26-121, you are hereby provided with the following information regarding the potential malpractice claim of:

(A) Full Name and date of birth of the patient whose treatment is at issue:

Jocelyn Kae Norris

DOB: [REDACTED]

(B) Name and address of the claimant authorizing the notice and the relationship to patient:

Jocelyn Kae Norris

287 Kingsdown Drive

Fairfield Glade, TN 38558

(C) Name and address of the attorney(s) sending the notice:

Thomas S. Scott, Jr.

Christopher T. Cain

SCOTT & CAIN

550 W. Main Street, Suite 601

Knoxville, TN 37902

(865) 525-2150

July 17, 2013  
Page 2

(D) List of the name and address of all providers being sent a notice:

Specialty Surgery Center, PLLC  
116 Brown Ave  
Crossville, TN 38555-7703

Specialty Surgery Center, PLLC  
c/o Donathan M Ivey, Registered Agent  
116 Brown Ave  
Crossville, TN 38555-7703

Specialty Surgical Center  
116 Brown Ave  
Crossville, TN 38555-7703

Also enclosed is a HIPPA compliant medical authorization permitting you to obtain the complete medical records of Jocelyn Kae Norris from each health care provider receiving this Notice.

With kind regards,

Sincerely yours,

Christopher T. Cain

CTC:ada  
*Enclosure*

**AUTHORIZATION BY PATIENT FOR RELEASE AND DISCLOSURE OF MEDICAL AND HEALTH INFORMATION RECORDS**

I hereby authorize the use or disclosure of my individually identifiable health information as described below. I understand the information may be re-disclosed and may no longer be protected by federal privacy regulation.

|                         |                    |
|-------------------------|--------------------|
| Patient's Full Name:    | Jocelyn Kae Norris |
| Date of Birth:          | [REDACTED]         |
| Social Security Number: | [REDACTED]         |

**1. Persons/Entities Authorized to Disclose Information:**

|                                |
|--------------------------------|
| Specialty Surgery Center, PLLC |
| Specialty Surgical Center      |

**2. Persons/organizations authorized to receive the information:**

This information is to be disclosed to:

Specialty Surgery Center, PLLC  
116 Brown Ave  
Crossville, TN 38555-7703

Specialty Surgery Center, PLLC  
c/o Donathan M Ivey, Registered Agent  
116 Brown Ave  
Crossville, TN 38555-7703

Specialty Surgical Center  
116 Brown Ave  
Crossville, TN 38555-7703

or their employees or representatives.

**3. Specific description of the information that may be used/disclosed:**

The information to be disclosed is: a copy of the patient's complete medical record, including opinions, notes, reports, history and physical examinations, progress notes, discharge summaries, consultation reports, laboratory tests, radiological test reports, statements, information related to psychiatric or psychological care, information related to diagnosis or treatment of AIDS, HIV, or any other sexually transmitted disease, information concerning treatment for alcohol and/or drug abuse, or other records in your custody or control.

**4. This information will be used/disclosed for the following purpose(s):**

This information is to be disclosed for the purpose of use in a civil action in which the patient's physical and/or mental condition is at issue.

**5.** This authorization can be revoked at any time by the patient. To revoke the Authorization, the patient must provide written notice of revocation to the provider of the individually identifiable health information. Such revocation will only be effect from the date it is received and will not apply to information that has already been released in response to this Authorization.

**6.** Patient's (or patient's representative's) refusal to sign this authorization will not affect patient's eligibility for benefits, or his/her ability to obtain treatment, receive payments, or enroll in a health plan.

Unless otherwise revoked, this Authorization will expire 120 days from the date signed, or at the conclusion of the civil action, whether by trial, settlement, or other conclusion.

**7.** A copy of this Authorization will be provided to the patient after it is signed. A photocopy of this Authorization has the same force and effect as the original executed Authorization.

SIGNED: Jocelyn Kae Norris  
Jocelyn Kae Norris

DATE: 7/16/2013

Printed name of patient: Jocelyn Kae Norris

Description of such representative's authority to the patient, if applicable: N/A

**SCOTT & CAIN**

Attorneys at Law  
550 W. Main Street, Suite 601  
Knoxville, TN 37902  
Telephone: (865) 525-2150  
Facsimile: (865) 525-2120

**Thomas S. Scott, Jr.**  
scott@scottandcain.com

**Christopher T. Cain**  
cain@scottandcain.com

July 17, 2013

Kenneth R. Lister, M.D.  
c/o Specialty Surgical Center  
116 Brown Avenue  
Crossville, Tn 38555-7703

Certified Mail/Return Receipt Requested

*In Re: James L. Palmer*

DOB: [REDACTED]

SSN: [REDACTED]

*T.C.A. § 29-26-121. Claim for health care liability -- Notice -- Evidence of Compliance -- Limitations -- Copies of medical records*

Dear Dr. Lister:

In conformity with the provisions of Tennessee Code Annotated § 29-26-121, you are hereby provided with the following information regarding the potential malpractice claim of:

(A) Full Name and date of birth of the patient whose treatment is at issue:

James L. Palmer

DOB: [REDACTED]

(B) Name and address of the claimant authorizing the notice and the relationship to patient:

James L. Palmer

8024 Delaware Drive

Crossville, TN 38572

(C) Name and address of the attorney(s) sending the notice:

Thomas S. Scott, Jr.

Christopher T. Cain

SCOTT & CAIN

550 W. Main Street, Suite 601

Knoxville, TN 37902

(865) 525-2150

July 17, 2013

Page 2

(D) List of the name and address of all providers being sent a notice:

Kenneth R. Lister, MD  
Knoxville, TN 37920

Kenneth R. Lister, MD  
c/o Outpatient Anesthesia  
2761 Sullins Street  
Knoxville, TN 37919

Kenneth R. Lister, MD  
c/o Outpatient Anesthesia, P.C.  
2761 Sullins Street  
Knoxville, TN 37919

Dr. Kenneth R. Lister, MD  
c/o Specialty Surgery Center  
116 Brown Ave  
Crossville, TN 38555

Kenneth R. Lister, MD  
P.O. Box 52364  
Knoxville, TN 37950

Kenneth R. Lister, Md, Pc  
116 Brown Ave  
Crossville, TN 38555

Dr. Kenneth Lister, MD  
c/o Specialty Surgery Center  
116 Brown Ave  
Crossville, TN 38555

Kenneth R. Lister, M.D.  
c/o Specialty Surgical Center  
116 Brown Avenue  
Crossville, TN 38555-7703

Outpatient Anesthesia  
2761 Sullins Street  
Knoxville, TN 37919

July 17, 2013

Page 3

Outpatient Anesthesia, P.C.  
2761 Sullins Street  
Knoxville, TN 37919

Outpatient Anesthesia, P.C.  
c/o Dr Richard Gillespie, Registered Agent  
2761 Sullins St  
Knoxville, TN 37919

Specialty Surgery Center, PLLC  
116 Brown Ave  
Crossville, TN 38555-7703

Specialty Surgery Center, PLLC  
c/o Donathan M Ivey, Registered Agent  
116 Brown Ave  
Crossville, TN 38555-7703

Specialty Surgical Center  
116 Brown Ave  
Crossville, TN 38555-7703

Also enclosed is a HIPPA compliant medical authorization permitting you to obtain the complete medical records of James L. Palmer from each health care provider receiving this Notice.

With kind regards,

Sincerely yours,  
  
Christopher T. Cain

CTC:ada  
Enclosure

**AUTHORIZATION BY PATIENT FOR RELEASE AND DISCLOSURE OF MEDICAL AND HEALTH INFORMATION RECORDS**

I hereby authorize the use or disclosure of my individually identifiable health information as described below. I understand the information may be re-disclosed and may no longer be protected by federal privacy regulation.

|                                      |
|--------------------------------------|
| Patient's Full Name: James L. Palmer |
| Date of Birth: [REDACTED]            |
| Social Security Number: [REDACTED]   |

**1. Persons/Entities Authorized to Disclose Information:**

|                                |
|--------------------------------|
| Kenneth R. Lister, MD          |
| Outpatient Anesthesia          |
| Outpatient Anesthesia, P.C.    |
| Specialty Surgery Center, PLLC |
| Specialty Surgical Center      |

**2. Persons/organizations authorized to receive the information:**

This information is to be disclosed to:

Kenneth R. Lister, MD  
Knoxville, TN 37920

Kenneth R. Lister, MD  
c/o Outpatient Anesthesia  
2761 Sullins Street  
Knoxville, TN 37919

Kenneth R. Lister, MD  
c/o Outpatient Anesthesia, P.C.  
2761 Sullins Street  
Knoxville, TN 37919

Dr. Kenneth R. Lister, MD  
c/o Specialty Surgery Center  
116 Brown Ave  
Crossville, TN 38533

Kenneth R. Lister, MD  
P.O. Box 52364  
Knoxville, TN 37950

Kenneth R. Lister, MD, PO  
116 Brown Ave  
Crossville, TN 38533

Dr. Kenneth Lister, MD  
c/o Specialty Surgery Center  
116 Brown Ave  
Crossville, TN 38533

Kenneth R. Lister, M.D.,  
c/o Specialty Surgical Center  
116 Brown Avenue  
Crossville, TN 38533-7703

Outpatient Anesthesia  
2761 Sullins Street  
Knoxville, TN 37919

Outpatient Anesthesia, P.C.  
2761 Sullins Street  
Knoxville, TN 37919

Outpatient Anesthesia, P.C.  
c/o Dr Richard Gillaspie, Registered Agent  
2761 Sullins St  
Knoxville, TN 37919

Specialty Surgery Center, PLLC  
116 Brown Ave  
Crossville, TN 38533-7703

Specialty Surgery Center, PLLC  
c/o Donathan M Ivy, Registered Agent  
116 Brown Ave  
Crossville, TN 38533-7703

Specialty Surgical Center  
116 Brown Ave  
Crossville, TN 38533-7703

or their employees or representatives.

**3. Specific description of the information that may be used/disclosed:**

The information to be disclosed is: a copy of the patient's complete medical record, including opinions, notes, reports, history and physical examinations, progress notes, discharge summaries, consultation reports, laboratory tests, radiological test reports, statements, information related to psychiatric or psychological care, information related to diagnosis or treatment of AIDS, HIV, or any other sexually transmitted disease, information concerning treatment for alcohol and/or drug abuse, or other records in your custody or control.

4. This information will be used/disclosed for the following purpose(s):

This information is to be disclosed for the purpose of use in a civil action in which the patient's physical and/or mental condition is at issue.

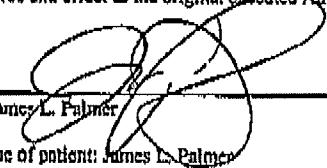
5. This authorization can be revoked at any time by the patient. To revoke the Authorization, the patient must provide written notice of revocation to the provider of the individually identifiable health information. Such revocation will only be effect from the date it is received and will not apply to information that has already been released in response to this Authorization.

6. Patient's (or patient's representative's) refusal to sign this authorization will not affect patient's eligibility for benefits, or his/her ability to obtain treatment, receive payments, or enroll in a health plan.

Unless otherwise revoked, this Authorization will expire 120 days from the date signed, or at the conclusion of the civil action, whether by trial, settlement, or other conclusion.

7. A copy of this Authorization will be provided to the patient after it is signed. A photocopy of this Authorization has the same force and effect as the original executed Authorization.

SIGNED:



James L. Palmer

DATE: 7-16-13

Printed name of patient: James L. Palmer

Description of such representative's authority to the patient, if applicable: N/A

**G. BRENT BURKS**

Licensed in Tennessee  
Certified as a Civil Trial Specialist  
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Of Counsel

Certified in Medical Malpractice  
and Civil Trial Specialist  
American Board of Professional  
Liability Attorneys

July 1, 2013

**VIA CERTIFIED MAIL  
RETURN RECEIPT REQUESTED**

**Ron Calisher, Administrator  
Specialty Surgery Center, PLLC  
116 Brown Avenue  
Crossville, TN 38555**

**Re: NOTICE OF CLAIM PURSUANT TO TENNESSEE CODE ANNOTATED §29-26-122  
Patient & Claimant: Wanda L. Reed**

Dear Mr. Calisher:

This notice is being provided to you as the administrator for Specialty Surgery Center, PLLC. Please read the following:

The full name and date of birth of the patient whose treatment is at issue:

**Wanda L. Reed**

**Social Security** [REDACTED]

**Date of Birth:** [REDACTED]

The name and address of the claimant authorizing this notice and the relationship to the patient is:

**Wanda L. Reed - Patient & Claimant  
245 Happy Top Road, Grandview, TN 37337**

The name and address of the attorney sending this Notice is:

**James R. Kennamer, Esq.  
MCMAHAN LAW FIRM  
P.O. Box 11107  
Chattanooga, TN 37401-2107  
(423) 265-1100**

This will confirm that I am the attorney representing Wanda L. Reed, the claimant and patient. I am giving you notice pursuant to TENNESSEE CODE ANNOTATED §29-26-121 that a medical malpractice claim will be filed against Specialty Surgery Center, PLLC within the time period required by law. The claim arises out of the severe personal injuries suffered by Wanda L. Reed when she was injected with contaminated drug products while Wanda L. Reed was under the care and treatment of Specialty Surgery Center, PLLC. The contaminated drug products were obtained by Specialty Surgery Center, PLLC from New England Compounding Pharmacy, LLC.

**I HAVE REQUESTED THAT SPECIALTY SURGERY CENTER, PLLC PROVIDE TO THE McMAHAN LAW FIRM A FULL AND COMPLETE COPY OF THE ENTIRE MEDICAL RECORDS AND THE ITEMIZED MEDICAL BILLING STATEMENTS OF SPECIALTY SURGERY CENTER, PLLC, WITH REGARD TO WANDA L. REED.**

**I HAVE REQUESTED THAT SPECIALTY SURGERY CENTER, PLLC PROVIDE TO THE McMAHAN LAW FIRM A FULL AND COMPLETE COPY OF ANY OTHER DOCUMENTS WHATSOEVER WHICH WERE GENERATED, CREATED AND/OR ARE MAINTAINED BY SPECIALTY SURGERY CENTER, PLLC, AND WHICH IN ANY WAY DISCUSS OR RELATE TO WANDA L. REED.**

**I AM ENCLOSING A HIPAA-COMPLIANT AUTHORIZATION SIGNED BY WANDA L. REED, THAT AUTHORIZES RELEASE TO THE McMAHAN LAW FIRM OF A COMPLETE COPY OF THESE MEDICAL AND OTHER DOCUMENTS.**

The medical malpractice claim will be filed by Wanda L. Reed. As required by TENNESSEE CODE ANNOTATED §29-26-122(a)(2)(E), Wanda L. Reed, has executed a HIPAA-compliant medical authorization [enclosed herein] that authorizes you to obtain complete medical records relating to Wanda L. Reed. For your information, Wanda L. Reed has received evaluation and treatment for her injuries with the following medical providers:

**Cookeville Regional Medical Center  
142 W. 5th Street  
Cookeville, TN 38501**

**Mark Pierce, M.D.  
145 West 4th Street, Suite 202  
Cookeville, TN 38501**

**Premier Diagnostic Imaging  
315 Washington Avenue, Suite 103  
Cookeville, TN 38501**

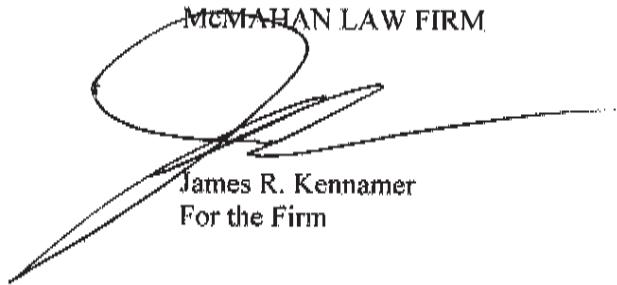
If any health care provider does not accept this HIPAA-compliant medical authorization for any reason, then please contact my offices immediately. We will use our best efforts to execute and provide a form of HIPAA-compliant medical authorization which is acceptable to the health care provider that will permit you to obtain complete medical records from that provider concerning Wanda L. Reed. Please be advised that neither this Notice nor the medical authorization waives the common law physician-patient privilege concerning the care and treatment of Wanda L. Reed.

Any correspondence or discussions with this firm about this matter should be directed to me. Please forward this Notice and the enclosures to the appropriate persons at Specialty Surgery Center, PLLC. We believe that this letter complies with the letter and spirit of TENNESSEE CODE ANNOTATED §29-26-121. If you or your counsel believe it is deficient in any way, then please promptly let us know and any defect will be promptly cured. If we do not promptly hear from you, then we will assume that you and your legal counsel believe that the letter complies with the law in all respects.

Thank you for your attention hereto.

Very truly yours,

MCMAHAN LAW FIRM



James R. Kennamer  
For the Firm

JRK/pwp  
Enclosures

**NAME AND ADDRESS OF ALL HEALTH CARE PROVIDERS TO WHOM THIS NOTICE IS BEING SENT PURSUANT TO TENNESSEE CODE ANNOTATED § 29-26-121(A) OF A POTENTIAL CLAIM FOR MEDICAL MALPRACTICE:**

1. **Specialty Surgery Center, PLLC**  
**116 Brown Avenue**  
**Crossville, TN 38555**

Each provider above is being sent a HIPAA-compliant medical authorization permitting each to obtain complete medical records.